

## STATE APPEAL BOARD

<b>In Re:</b>	<b>Ringgold County Assessor )</b>	<b>Order</b>
	<b>Budget Appeal )</b>	
	<b>FY 2014 )</b>	<b>April 30, 2013</b>

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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, DAVID ROEDERER; STATE AUDITOR DAVID A. VAUDT; AND STATE TREASURER MICHAEL L. FITZGERALD.**

A hearing on the above captioned matter was held pursuant to the provisions of Chapter 24 of the Code of Iowa on April 23, 2013. The hearing was before a panel consisting of Mr. Luke Donahe, Investment Officer, Office of the State Treasurer and presiding Hearing Officer; Ms. Carrie Johnson, Property Valuation and County Budget Administrator, Department of Management; and Ms. Suzanne Dahlstrom, Manager, Office of the State Auditor.

The primary spokesperson for the petitioners was Mr. Kevin Kilgore. The primary spokesperson for the Ringgold County Assessor was Mr. Neil Morgan, County Assessor.

Upon consideration of the specific objections raised by the petitioners, the testimony presented to the hearing panel at the public hearing, the additional information submitted to the hearing panel both before and after the hearing, and after a public meeting to consider the matter, the State Appeal Board has voted to sustain the Ringgold County Assessor's fiscal year (FY) 2014 budget as described herein.

### PROCEDURAL HISTORY

The FY2014 Ringgold County Assessor's proposed budget summary was published in the Mount Ayr Record-News. The budget was adopted at a public meeting held on February 18, 2013.

A petition protesting the certified FY2014 Ringgold County Assessor budget was filed with the Ringgold County Auditor on March 25, 2013 and was received by the State Appeal Board on March 27, 2013. The petitioners' objections and their reasons listed on the petition document are as follows:

- Objection number one stated the budget was not adopted at a public hearing as required by Iowa Code Section 24.13.
- Objection number two stated the Special Appraiser Fund FY2012 (actual line 63) overspends FY2012 (estimated line 60) by \$207 in violation of Iowa Code Section 24.15.
- Objection number three was the adopted budget represents a 9.5% budget growth.
- Objection number four stated the Iowa Department of Management (IDOM) Form 673 provides no actual budget balance for any fund or as a total (lines E&F) Repeat 2X.

- Objection five was the taxable valuation list is incorrect based on input from the County Assessor.

The petitioners asked the adopted budget be reverted to last year's budget amount to reflect failure to certify the budget at a public hearing.

### **DISCUSSION**

The petitioner and the representatives of the Ringgold County Assessor provided various written summaries, exhibits and verbal commentary in support of their positions. A summary of this information and the public hearing is as follows:

### **PETITIONERS**

Mr. Kilgore requested the hearing be terminated because the County Assessor was not a member of the Conference Board. Mr. Donahue stated the hearing was informal and was intended to gather information needed to assist the State Appeal Board in rendering a decision. Therefore, the hearing would continue.

Mr. Kevin Kilgore represented the petitioners. Mr. Kilgore referenced 6A, a document handed out at the meeting which was a restatement of his objections as included in the submitted petition, and he also referenced Exhibit 6 from Exhibits previously submitted during the budget appeal hearing held for the Ringgold County Hospital earlier on April 23, 2013.

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He also indicated the following concerns:

- Referencing the taxable valuation sheets within Exhibit 6, Mr. Kilgore stated there should be no increment value for rural property and there is no data line for the Rural Improvement Zone.
- Mr. Kilgore also expressed objections number four and five return to the same argument he has with IDOM.

## RINGGOLD COUNTY ASSESSOR RESPONSE

Mr. Neil Morgan, County Assessor, served as the primary spokesperson for the County Assessor's budget.

Mr. Morgan stated he wanted the hearing to be terminated based on not receiving the petitioner's Exhibit 6. Mr. Donahe stated the hearing would proceed.

In the response to the petition, he expanded upon the written remarks submitted prior to the hearing in Assessor Exhibit 1. Mr. Morgan's written comments and statements presented the following response to the petitioners' objections:

- In response to Objection 1, Mr. Morgan referenced Iowa Code Sections 24.11, 24.12 and 24.13. He stated the Conference Board met at the published date and time and one member of the public was present and asked questions. Mr. Morgan indicated the citizen's questions were answered and he left. Upon the public hearing being closed, the Conference Board in session passed the budget as published. He stated he believed the Conference Board complied with the words "After the hearing has been concluded" found in Iowa Code Section 24.12 and if the Legislature had intended to say the budget should be adopted at the public hearing, it would have stated such.
- In response to Objection 2, Mr. Morgan stated the violation of spending authority of last year's budget is not germane to this year's budget as the appeal is only for the proposed FY2014 budget. He said the Legislature changed the law between the fiscal year 2013 budget approval and the beginning of the fiscal year 2014 budget. He said the Conference Board followed the direction provided by IDOM regarding this change. He indicated since no money was spent from the Special Appraiser's Fund for any of FY2013, it is difficult to understand how money can be overspent. Transfers were the only transaction from the old Special Appraisers Fund in accordance with HF 524. Mr. Morgan stated this was done at the July 9, 2013 Conference Board hearing and meeting.
- In response to Objection 3, Mr. Morgan indicated the expectation of a new requirement in agricultural assessments is very likely via Iowa Department of Revenue (IDR) Administrative Rule. He stated the implementation has an early phase which requires January 2014 availability of Geographic Information System (GIS) computer programs and the FY2014 budget includes a small amount of the total cost of a GIS system. If the Administrative Rule passes, Mr. Morgan anticipates seeking the emergency levy for one to three years, which would raise the levy above current legal limits. Mr. Morgan stated if the Administrative Rule does not transpire, the Assessor's office will develop a GIS system at a slower rate, with costs spread over more years. He said the salary, health insurance and consulting plus computer programs for GIS warrant the increased tax asking. Mr. Morgan stated the IDR will hold a public hearing on the proposed rule on April 26, 2013 at 9:00 a.m. at the Hoover Building. When asked by the hearing panel, Mr. Morgan indicated the cost of the GIS system is estimated to be as much as \$100,000, but he would like to do work locally and try to accomplish it closer to \$30,000-\$40,000, if possible.

- In response to Objections 4 and 5, Mr. Morgan stated this returns to the same argument the main petitioner has ongoing with IDOM. He said the Conference Board can only use data and forms supplied by IDOM and if either valuation certified by IDOM or forms supplied by IDOM are changed, the Conference Board will comply.

### **PETITIONER'S REBUTTAL**

In his rebuttal to the Assessor, Mr. Kilgore stated the budget was not adopted at a public hearing and therefore not certified by March 15. He indicated a budget not certified by March 15 reverts to the prior year's budget. He also stated the FY2012 Special Appraiser's Fund appropriation was overspent.

### **MEMBERS OF THE PUBLIC**

No members of the public spoke during the public comment time.

### **FINDINGS OF FACT**

1. Iowa Code section 24.27 provides persons who are affected by any proposed budget, expenditure or levy, or by an item thereof, may appeal. The petitioners met the requirements and, pursuant to Iowa Code sections 24.28 and 24.29, a hearing was scheduled and conducted.
2. The Ringgold County Assessor FY2014 budget reflects \$15,521 more in property tax and utility replacement taxes, or \$15,539 in property taxes only, than in FY2013.
3. For the FY2014 budget, the Assessor levied an Assessment Expense Fund tax rate of \$0.67449/\$1,000 of taxable valuation. In FY2013, the Assessor's rate was \$0.65664.
4. In reference to the budget process, according to Iowa Code Section 24.12, "After the hearing has been concluded, the certifying board shall enter of record its decision in the manner and form prescribed by the state board..." Based on minutes of the February 18, 2013 Ringgold County Conference Board found in Petitioner's Exhibit 6, a public hearing was held on the FY2014 Ringgold County Assessor's budget. The hearing was opened, one member of the public was present and had comments and questions, and the public hearing was closed. Following the public hearing, the Conference Board voted unanimously to approve the budget as published and passed.
5. The FY2012 certified budget indicated proposed expenditures of \$87,349 for the Special Appraiser's Fund. The FY2014 budget indicates actual expenditures of \$83,254 in the Special Appraiser's Fund for FY2012. Based on these figures, the spending authority for the Special Appraiser's Fund in FY2012 was not exceeded. The FY2012 Column A, line 63 in the Special Appraiser's Fund to FY2012 Re-estimated as reported in the FY2013 budget Column B, line 60 in the Special Appraiser's Fund is a comparison of total requirements, which is expenditures plus fund balance. Iowa Code Section 24.15 refers to exceeding the

published tax revenue estimates when it states, in part, "No tax shall be levied by any municipality in excess of the estimates published..."

6. The FY2014 budgeted ending fund balance in the Assessment Expense Fund was \$39,405, or approximately 20% of expenditures.
7. Expenses increased \$17,761 overall. The expenditure increases are primarily found in line items related to Salaries, FICA, IPERS, Health/Group Insurance-Employer Share, Software Maintenance and GIS.
8. In the April 2, 2013 Iowa Administrative Bulletin, Volume XXXV, Number 20, page 1545, the IDR published notice of the April 26, 2013 hearing on proposed amendment to rule 701-71.3 (421, 428, 441) regarding the valuation of agricultural real estate. The Notice stated, in part, "For the seven counties without digital parcels, the proposed amendment may necessitate additional expenditures in the amount of up to \$100,000 but possibly a greater amount." Ringgold County is one of those seven counties.
9. According to Iowa Code Section 24.9, "The department of management shall prescribe the form for public hearing notices for use by municipalities."
10. Mr. Kilgore submitted a Petition for a Declaratory Order to IDOM filed February 8, 2012 requesting correction of the taxable valuation list prior to budget approval by the various taxing entities in Ringgold County. IDOM responded to his Order and took no further action.

### **CONCLUSIONS OF LAW**

The State Appeal Board has jurisdiction over the parties and the subject matter of this appeal, pursuant to Iowa Code section 24.28.

### **BASIS OF DECISION**

Iowa Code section 24.28 states, in part, "At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the previous year and which the objectors propose should be reduced or excluded...". The Code continues, "...the burden shall be upon the certifying board or the levying board, as the case may be, to show any new item in the budget, or any increase in any item in the budget, is necessary, reasonable, and in the interest of the public welfare."

A public hearing was held on the Assessor's budget and the budget was approved by the Conference Board following the hearing.

The Ringgold County Assessor budget increase in property tax and utility replacement tax asking was \$15,521 or \$15,539 in property taxes only, an increase of 9.5%, with a total expenditure increase of \$17,761. Much of the increase in expenditures for the Assessor were related to software maintenance and preparation for GIS system development. Other increases were found in line items related to salary, FICA, IPERS and health insurance.

The petitioners did not adequately satisfy the burden of proof requirement to justify a change in the FY2014 budget. The Assessor adequately satisfied the burden of proof requirement for the increases in the FY2014 budget.

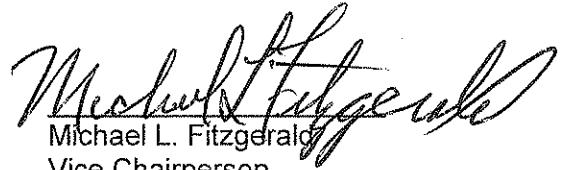
**ORDER**

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board sustains the FY2014 Ringgold County Assessor's Budget as adopted.

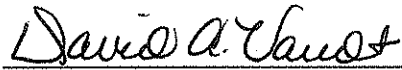
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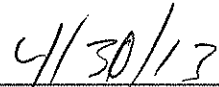
David Roederer  
Chairperson



Michael L. Fitzgerald  
Vice Chairperson



David A. Vaudt  
Member



Date